cepted to. *Nulton v. Croskey,* 111 Mo. App., 18; *McCann v. Ullman,* 109 Wis., 574; *Lochrane v. Solomon,* 38 Ga., 286. In *Brigden v. Osmun,* 36 N. Y. S., 1025, a new trial was allowed where an instruction was given based on a misapprehension of testimony, though no request was made or exception taken, and in *Moore v. Balten,* 5 Misc. (N. Y.), 520, the broad rule was laid down that a court may allow a new trial, in its discretion, for failure to give proper instructions, though no request was made. However, *Freeland v. Southern Ry. Co.,* 70 S. C., 427, a case very similar in its facts to *Linitzky v. Gorman,* held in accord with the principal case, the rule of which seems to be well established. Although the rule undoubtedly works hardships in some instances, as in the principal case, where it led to the denial of a clear legal right, adherence to it leads to uniformity and certainty in procedure, and a less stringent rule, it may be argued, would cause subterfuge and delay.

PHYSICIANS AND SURGEONS—SERVICES RENDERED IN EMERGENCY—RIGHT TO COMPENSATION.—SCHOENBERG v. ROSE, 145 N. Y. S., 831.—The president and secretary of a corporation were, during the pendency of a trial against a corporation, in a court room, when the president became suddenly ill and fell unconscious on the floor. The secretary and counsel for the corporation called for a doctor, whereupon the plaintiff, who was in the court room, responded and rendered medical assistance. *Held,* that the fact that the secretary and counsel summoned plaintiff did not render them liable for the service, since they, being under no legal obligation to furnish medical services to the deceased, occupied the relation of mere strangers.

When a person calls a physician to care for another rendered by sudden injury unable to act for himself and to whom he stands in no relationship which creates any obligation to furnish necessary medical care, and no express undertaking is entered into, the law does not presume from the mere summoning of the physician and requesting him to care for the injured, any implied promise to pay for the services. *Starrett v. Miley,* 79 Ill. App., 658; *Dorion v. Jacobson,* 113 Ill. App., 653. One is not under any implied obligation to pay for the services of a physician called to attend a minor living with his family and supported by him, but not otherwise relator to him, though he acquiesced in the attendance. *Holmes v. McKim,* 109 Iowa, 245; *Raukin v. Beale,* 68 Mo. App., 32. The rule appears to be that if the party summoning the physician is under only a moral obligation to the party needing the medical aid, and there is no express promise to pay the physician, the party summoning the physician is not liable for the services.

RELIGEOUS SOCIETIES—RIGHTS OF PEWHOLDERS.—WITTHAUS v. ST. THOMAS' CHURCH, 146 N. Y. S., 279.—*Held,* a pewholder has no title to the church edifice nor to the soil, but possesses only a usufructuary right to the use of the pew when the building is open for services, subject to the reasonable regulations of the church.